

BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes

February 5, 2004

A meeting of the Board of Environmental Protection was held on Thursday, February 5, 2004, at the Civic Center in Augusta, Maine. Richard Wardwell, Chair, called the meeting to order at 9:00 a.m. with the following individuals present:

Board: Ernest Hilton, Nancy Anderson, Irving Faunce, Katharine Littlefield, Richard Wardwell, Virginia Plummer, Matt Scott, Nancy Ziegler and Jean T. Wilkinson

Note: There is one vacancy

<u>Staff:</u>	<u>Bureau of Remediation and Waste Mgmt.</u>	Joan Jones
	<u>Bureau of Remediation and Waste Mgmt.</u>	Richard Kaselis
	<u>Bureau of Remediation and Waste Mgmt.</u>	George Seel
	<u>Bureau of Remediation and Waste Mgmt.</u>	Scott Whittier
	<u>Bureau of Land and Water Quality</u>	Stacie S. Beyer
	<u>Bureau of Air Quality</u>	Jeffrey Crawford
	<u>Bureau of Air Quality</u>	Ron Severance

Others: Dawn R. Gallagher, Commissioner
David P. Littell, Deputy Commissioner
Jerry Reid, Assistant Attorney General
Peggy McCloskey, Assistant Attorney General (work session only)
Cynthia Bertocci, Executive Analyst
Terry Hanson, Administrative Assistant

(Meeting adjourned at approximately 3:30 p.m.)

Draft

I. DEPARTMENTAL

A. COMMISSIONER'S COMMENTS: Commissioner Dawn Gallagher reported the following:

Ozone Bump Up: The State has been negotiating with the environmental organizations that filed a law suit regarding Maine's non-attainment for ozone standards, and an agreement in principle has been reached that would avoid bumping Maine up to serious non-attainment. The agreement will result in a series of executive orders that include strategies to mitigate the ozone problems. Jerry Reid, Assistant Attorney General, also advised the Board that proposed rule Chapter 153 Mobile Equipment Repair and Refinishing is one of the rules the State has proposed to adopt as part of this proposed agreement.

Stormwater: The Department will be briefing the Joint Standing Committee on Natural Resources on changes to the stormwater rules which will be proposed later this year. These rule amendments, which will be considered major substantive, are intended to bring us into compliance with EPA standards and address new and existing run-off sources. The Board can anticipate review of these amendments some time in 2004.

Deputy Commissioner Davie Littell reported the following:

Lincoln Pulp & Paper and Eastern Fine Paper: These facilities have been going through bankruptcy for 4-years, and the facilities are no longer operating. The Department has been drafting an emergency order to address environmental liability concerns related to potential closure of these facilities. If the Commissioner issues an emergency order, the appeal deadline and process time is abbreviated and may require the Board to consider any appeal on short notice. The emergency order would address proper handling of hazardous materials and may include requirements for proper closure of the facilities. Most recently, the court has ruled that this is an involuntary reorganization as opposed to a voluntary reorganization.

Windpower: The Department has accepted for processing an application for a windpower generation project in Mars Hills. After review of the criteria, it has been determined that this application does not meet the standards for Board jurisdiction. The timeframe for individuals to request Board jurisdiction is still running, but no requests have been filed at this point and the Department does not anticipate any requests. The town is participating as a co-applicant on this project.

Additionally, the Department is expecting to receive a second windpower application at the end of March (Redington Township).

Board member Irving Faunce asked why the town is a co-applicant on the Mars Hill project.

Deputy Commissioner Littell explained that the town wanted to demonstrate to the Department strong local support for the project.

Cross Roads Landfill: The Department is prepared to provide an update on the status of the Crossroads Landfill (Waste Management expansion and waste relocation at Norridgewock) at the request of the Board. The Department anticipates a 30-minute briefing.

Questions: Board member Irving Faunce asked what type of environmental liability issues are associated with a mill shutdown

Mr. Littell responded that it is the responsibility of the creditors to ensure that all hazardous substances and chemicals are handled and disposed of properly. In the case of the Lincoln facility, the wastewater treatment plant closure is critical since the cold weather could result in broken pipes discharging pollution directly into the waters of the state.

Additionally, the court ruled that this is an involuntary reorganization bankruptcy therefore, all mill staff considered themselves laid-off. However, the bankruptcy trustees have decided to retain the environmental manager to ensure no environmental problems occur. Jim Dusch. will be working directly with the bankruptcy trustee to further the Department's interests throughout the bankruptcy proceedings.

Board member Katharine Littlefield asked about the status of the Old Town Landfill

Commissioner Gallagher announced that the Department is scheduling a public meeting to be held at the end of February. The one request for BEP jurisdiction, submitted by the Town of Brewer, was withdrawn as a result of resolution of the Town's transportation concerns. The Department expects a draft permit to be available for comment at the end of February.

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| B. CHAIRMAN'S COMMENTS: | None |
| C. EXECUTIVE ANALYST COMMENTS: | None |
| D. BOARD CALENDAR: | The February 19 th meeting may be canceled since we do not yet have any regular agenda items. |
| E. DEPARTMENTAL ORDERS: | Reviewed |
| F. EXECUTIVE SESSION: | None |

II CONSENT AGENDA ITEMS

The Board voted (8-0-1-0) on a motion to approve as presented consent agenda item 1

Board members Irving Faunce, Ernest Hilton, Virginia Plummer, Richard Wardwell, Nancy Anderson, Katharine Littlefield, Nancy Ziegler, and Matt Scott, voted to support the motion. Board member Jean T. Wilkinson voted to abstain.

1. BEP MINUTES, November 6, 2003 – approve

The Board voted (7-0-2-0) on a motion to approve as presented consent agenda item 2

Board members Irving Faunce, Ernest Hilton, Virginia Plummer, Richard Wardwell, Nancy Anderson, Katharine Littlefield, and Matt Scott, voted to support the motion. Board members Nancy Ziegler and Jean T. Wilkinson voted to abstain.

2. BEP MINUTES, November 20, 2003 – approve

The Board voted (9-0-0-0) on a motion to approve as presented consent agenda items 3, 4, 5, 6, 7, 8, and 9

Board members Irving Faunce, Ernest Hilton, Virginia Plummer, Richard Wardwell, Nancy Anderson, Katharine Littlefield, Nancy Ziegler, Jean T. Wilkinson and Matt Scott voted to support the motion.

3. EASTERN MAINE MUSSEL CORPORATION, Hancock – Administrative Consent Agreement and Enforcement Order. (BLWQ – Water)

4. ROCKLAND MARINE CORPORATION, Rockland – Administrative Consent Agreement and Enforcement Order (BWLQ – Water)
5. SPRAGUE ENERGY, CORP., Searsport – Administrative Consent Agreement (BAQ)
6. ATLANTIC PARK L.L.C., Old Orchard Beach – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
7. FRASER BROTHERS, INC., Jefferson – Administrative Consent Agreement (BLWQ-Land)
8. RF JORDAN & SONS CONSTRUCTION, INC. Ellsworth - Administrative Consent Agreement (BLWQ-Land)
9. DISNEY ENVIRONMENTAL SERVICES, INC., Auburn – Administrative Consent Agreement (BRWM)

III. Regular Agenda

1. SAFETY-KLEEN SYSTEMS INC., Leeds / Hazardous Waste Storage Facility Transfer and Renewal (final approval of draft order)

Staff: Joan Jones, Bureau of Remediation and Waste Management

The Board voted (9-0-0-0) on a motion to approve the revised draft order and errata sheet as presented. The vote was taken pursuant to 38 M.R.S.A., 1301 et. seq., 1319 et. seq. and 09-096 CMR Chapters 850-857.

Board members Irving Faunce, Virginia Plummer, Jean T. Wilkinson, Richard Wardwell, Ernest Hilton, Nancy Anderson, Katharine Littlefield, Nancy Ziegler, and Matt Scott voted to support the motion.

Staff: Joan Jones, Bureau of Remediation and Waste Management

2. ENPRO SERVICES OF MAINE INC., So. Portland / Hazardous Waste Transfer / Waste Oil Storage Facility and Commercial Hazardous Waste Storage & Treatment License Renewal (approval / post to 45-day public comment)

The Board voted (8-0-0-1) on a motion to approve, as presented, the draft order for Enpro Services of Maine, Inc. for posting to 45-day public comment. The vote was taken pursuant to 38 M.R.S.A., 1319-R, 06-096 CMR chapters 850 – 857 and 06-096 CMR Chapter 860.

Board members Ernest Hilton, Nancy Anderson, Irving Faunce, Katharine Littlefield, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson and Nancy Ziegler voted to support the motion. Board member Matt Scott was absent.

Staff: Richard Kaselis, Bureau of Remediation and Waste Management

3. CHAPTER 153 MOBILE EQUIPMENT REPAIR and REFINISHING / NEW (adoption)

The Board voted (6-2-0-1) to adopt Chapter 153, Mobile Equipment Repair and Refinishing to amend the deadline for training from September 1, 2004 to January 1, 2005 and include ATV's and Snowmobiles in the list of mobile equipment as defined in Section 2(E). The vote was taken pursuant to 38 M.R.S.A., Section 431 and 585-A.

Board members Ernest Hilton, Irving Faunce, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson and Nancy Ziegler voted to support the motion. Board members Nancy Anderson and Katharine Littlefield voted opposed. Board member Matt Scott was absent.

Staff: Jeffrey Crawford, Bureau of Air Quality

4. CHAPTER 691 RULES FOR UNDERGROUND OIL STORAGE FACILITIES
(discussion/adoption)

The Board voted (9-0-0-0) on a motion to adopt amendments to Chapter 691 to include the following modifications:

Section 3 00. *Replacement facility: “replacement facility” means an underground oil storage facility where one or more of the following major components are replaced: a tank; piping; leak detection equipment or overfill prevention or containment equipment. Minor repairs to a facility component, or other repairs conducted in accordance with the requirements of this rule, do not trigger the definition of a replacement facility.*

Note: Except where specified otherwise in the rule, only the major component replaced will need to meet the rule’s design and installation requirements for new and replacement facilities. It is not the intent of this definition to require the upgrade of an entire facility in the event one component is replaced.

Section 5(D)(7) *Loading rack catchment and containment systems at new and replacement bulk plants or other distribution facilities...*

The vote was taken pursuant to 38 M.R.S.A. Section 341-D.

Board members Ernest Hilton, Nancy Anderson, Irving Faunce, Katharine Littlefield, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler and Matt Scott voted to support the motion.

Staff: George Seel, Bureau of Remediation and Waste Management

5. Bureau of Air Quality – Program Overview (informational session)

A second informational session with Air Bureau staff will be scheduled for a future meeting.

Staff: Ron Severance, Bureau of Air Quality
Jeff Crawford, Bureau of Air Quality

6. ANNE S. HANNUM /Remand (work session)

Staff: Cynthia Bertocci, BEP Executive Analyst

Staff: Stacie Beyer, Bureau of Land and Water Quality